REMARKS

Applicants have amended their claims in order to further clarify the definition of various aspects of the present invention. Specifically, Applicants have amended claim 77 to delete therefrom various moieties for R^{11e} (that is, to delete recitation that R^{11e} represents substituted or unsubstituted aroyl, substituted or unsubstituted aromatic heterocyclic carbonyl (wherein an aromatic heterocyclic moiety of the aromatic heterocyclic carbonyl is not tetrazolyl) or substituted or unsubstituted aryloxycarbonyl). Moreover, claim 94 has been amended to delete the extra period at the end thereof.

Initially, it is respectfully requested that the present amendments be entered, notwithstanding the Finality of the Office Action mailed February 16, 2011. Noting deletion of various moieties for R^{11e} from claim 77, including recitation that R^{11e} is a substituted or unsubstituted aromatic heterocyclic carbonyl (wherein an aromatic heterocyclic moiety of the aromatic heterocyclic carbonyl is not tetrazolyl), it is respectfully submitted that the present amendments materially limit issues remaining in connection with the above-identified application, presenting all remaining claims in allowable condition. Noting that the Examiner has cited and applied Sircar, et al., for the first time in the Office Action mailed February 16, 2011, it is respectfully submitted that the present amendments are timely. Emphasizing reference by the Examiner to teachings in Sircar, et al. of R^{11e} being substituted aromatic heterocyclic carbonyl, it is respectfully submitted that the present amendments do not raise any new issues, including any issue of new matter. Again, it is emphasized that the present amendments, deleting R^{11e} being a specified substituted or unsubstituted aromatic heterocyclic carbonyl, overcomes Sircar, et al. as relevant prior art, presenting all remaining claims in condition for allowance.

In view of the foregoing, it is respectfully submitted that Applicants have made the necessary showing under 37 CFR 1.116; and that, accordingly, entry of the present amendments is clearly proper.

The indicated allowance of claims 89-93 and 95 is noted with thanks.

The objection to claim 94 because of the informality that claim 94 ends in two periods instead of only one period, is moot, in light of present amendments to claim 94 to delete one of the periods.

The objection to claims 78, 80-82, 85 and 86 as being dependent upon a rejected base claim, and the indication by the Examiner that these claims would appear to be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims, are noted. As will be discussed further in the following, it is respectfully submitted that claim 77, the sole independent claim in the application, should now be allowable, as claim 77 has been amended to overcome the pending rejection of the claim. Accordingly, it is respectfully submitted that Applicants need not set forth claims 78, 80-82, 85 and 86 in independent form, in order for these claims to be allowable.

For clarification of the record, it is noted that in the Office Action Summary for the Office Action mailed February 16, 2011, the status of claim 78 has not been set forth. It is clear from page 4, i.e., of the Detailed Action, that claim 78 is objected to; clarification of the Office Action Summary in connection with claim 78, upon further examination of the above-identified application, is respectfully requested.

Applicants respectfully submit that all of the claims considered on the merits by the Examiner, including claims 77, 87 and 88, patentably distinguish over the teachings of the reference applied by the Examiner in rejecting claims 77, 87 and 88, in the Office Action mailed February 16, 2011, that is, the teachings of Sircar, et al.,

"Nonpeptide Angiotensin II Receptor Antagonists. 1. Synthesis and in Vitro Structure-Activity Relationships of 4-[[[(1*H*-Pyrrol-1-ylacetyl)amino]phenyl]methyl]imidazole Derivatives as Angiotensin II Receptor Antagonists", in J. Med. Chem., 1993, 36, 1735-1745, under the provisions of 35 USC 102 and 35 USC 103.

It is respectfully submitted that the teachings of the applied reference would have neither disclosed nor would have suggested such a bicyclic heterocyclic compound as in the present claims, represented by the formula (IIIa) including wherein R^{11e} represents substituted or unsubstituted lower cycloalkyl, substituted or unsubstituted aryl, a substituted or unsubstituted aliphatic heterocyclic group, substituted or unsubstituted lower cycloalkylcarbonyl, -C(=O)NHR^{15d} (wherein R^{15d} represents substituted or unsubstituted cycloalkyl, or substituted or unsubstituted aryl), or $-S(O)_2R^{17a}$ (wherein R^{17a} represents substituted or unsubstituted aryl). See claim 77.

Furthermore, it is respectfully submitted that the teachings of the applied reference would have neither disclosed nor would have suggested such bicyclic heterocyclic compound or the pharmaceutically acceptable salt thereof as in the present claims, having features as discussed previously in connection with claim 77, and, additionally, wherein R^{35a}, R^{36a} and R^{37a} are the same or different and each is lower alkyl (see claim 87), in particular, wherein R^{35a}, R^{36a} and R^{37a} are methyl (see claim 88).

The bicyclic heterocyclic compounds and pharmaceutically acceptable salts thereof as in the present claims are preventive and/or therapeutic agents for neutrophilic inflammatory diseases, noting, for example, page 3, lines 2-5, of Applicants' specification.

Sircar, et al. discloses a series of non-biphenylyltetrazole angiotensin II receptor antagonists. This article discloses that, recently, several nonpeptidic angiotensin II (AT_1) receptor antagonists have been reported, and one is in phase III undergoing development as an antihypertensive. The article goes on to describe that, as part of an ongoing search to identify non-biphenylyltetrazole AT_1 receptor antagonists, the authors have explored the modification of the benzoyl moiety in EXP 6803, an early lead developed by DuPont; and the article reports on efforts in optimizing the receptor binding affinity of the EXP 6803 series by replacing the benzoyl group with novel 1*H*-pyrrol-1-yl-acetyl residues, the investigation leading to several compounds with modest receptor binding affinity which contributed to the understanding of structural requirements for optimal binding to the angiotensin receptor. Note the Introduction of this article, on page 1735. On page 1739, in Table VII, are set forth various 1*H*-Pyrrole-1-acetic acid derivatives, including compound 61; and in the right-hand column on page 1739, it is described that the receptor binding affinities of the isomeric acids in Table VII were in the micromolar range (data not being shown); and that these compounds represent a novel series of potent and selective AT_1 antagonists (less than 20% inhibition at 1 μM for the AT_2 receptor).

As identified by the Examiner on page 5 of the Office Action mailed February 16, 2011, compound 61 in Table VII on page 1739 of Sircar, et al. corresponds to the presently claimed compound having R^{11e} being a substituted aromatic heterocyclic carbonyl. It is respectfully submitted that the disclosure of Sircar, et al. as a whole, including compound 61, would have neither disclosed nor would have suggested the bicyclic heterocyclic compound in the present claims, including R^{11e} as presently defined.

Applicants note the objection to claims 77, 87 and 88 as set forth on page 4 of the Office Action mailed February 16, 2011, including the indication therein that this objection would be overcome by an amendment overcoming the pending rejections of the claims. As the present amendments overcome the pending prior art rejections of claims 77, 87 and 88, it is respectfully submitted that the objection to these claims is moot.

Withdrawal of claims 79, 83 and 84 from consideration, as being for non-elected subject matter, is noted. Claim 79 is dependent on claim 77, with each of claims 83 and 84 being dependent on claim 79. As claim 77 should now be allowed, it is respectfully requested that its dependent claim 79, and claims 83 and 84 dependent on claim 79, be re-joined in the above-identified application for consideration on the merits, be allowed, and issue in a U.S. patent issuing from the above-identified application. Compare claim 77 with claims 78-80, each considered on the merits in the above-identified application.

In view of the foregoing comments and amendments, entry of the present amendments, and reconsideration and allowance of all claims presently pending in the above-identified application, are respectfully requested.

To the extent necessary, Applicants hereby petition for an extension of time under 37 CFR 1.136. Kindly charge any shortage of fees due in connection with the filing of this paper, including any extension of time fees, to the Deposit Account of

Antonelli, Terry, Stout & Kraus, LLP, Account No. 01-2135 (case 506.46539X00), and please credit any overpayments to such Deposit Account.

Respectfully submitted,

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